

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE UNIVERSAL CHURCH, INC.,

Plaintiff,

-against-

UNIVERSAL LIFE CHURCH/ULC MONASTERY
d/b/a THE UNIVERSAL LIFE CHURCH,
UNIVERSAL LIFE CHURCH MONASTERY
STOREHOUSE, GEORGE FREEMAN, BRUCE
TAYLOR, CALVIN TOELLNER and DANIEL
CHAPIN,

Defendants.

Case No.: 14-cv-5213 (NRB)

DECLARATION IN SUPPORT

I, Jura Zibas, declare the following under the penalties of perjury pursuant to 28 U.S.C. §1746:

1. I am an attorney for Defendant UNIVERSAL LIFE CHURCH/ULC MONASTERY d/b/a THE UNIVERSAL LIFE CHURCH, UNIVERSAL LIFE CHURCH MONASTERY STOREHOUSE, GEORGE FREEMAN, BRUCE TAYLOR, and CALVIN TOELLNER (hereinafter collectively “Defendants”) and am familiar with the facts and pleadings herein from my review of the file maintained by our office.
2. This Declaration is submitted in support of Defendants’ motion for summary judgment pursuant to Fed. R. Civ. P. 56.
3. Plaintiff initially filed this action on or about July 11, 2014. Thereafter, Plaintiff filed an Amended Complaint on or about November 18, 2014. Annexed hereto as **Exhibit A** is a true and correct copy of Plaintiff’s First Amended Complaint, dated November 18, 2014.
4. Annexed hereto as **Exhibit B** is a true and correct copy of the Deposition Transcript of David Silva-Neto, Plaintiff’s 30(b)(6) Witness, dated October 26, 2015.

5. Annexed hereto as **Exhibit C** is a true and correct copy of Defendant UNIVERSAL LIFE CHURCH MONASTERY STOREHOUSE's Certificate of Existence from the Secretary of State of the State of Washington (ULC000012).
6. Annexed hereto as **Exhibit D** is a true and correct copy of Plaintiff's Responses and Objections to Defendants' Second Set of Requests to Admit to Plaintiff, dated March 8, 2016.
7. Annexed hereto as **Exhibit E** is a true and correct copy of the Deposition Transcript of George Freeman, dated October 30, 2015. This exhibit has been filed partially redacted with an unredacted copy contemporaneously delivered to Chambers and opposing counsel via overnight mail in connection with Defendants' Motion to Seal Portions of Defendants' Motion for Summary Judgment.
8. Annexed hereto as **Exhibit F** is a true and correct copy of Defendants' website <themonastery.org> (UCUS000724).
9. Annexed hereto as **Exhibit G** is a true and correct copy of Defendants' "ULC Monastery" Trademark Registration (Registration No. 4869623).
10. Annexed hereto as **Exhibit H** is a true and correct copy of Plaintiff's "Universal Church" Trademark Registration (Registration No. 3,037,551) (USUS000154).
11. Annexed hereto as **Exhibit I** is a true and correct copy of Plaintiff's Section 8 and Section 15 filings with the United States Patent and Trademark Office in connection with the "Universal Church" trademark (UCUS000118-UCUS000130).
12. Annexed hereto as **Exhibit J** is a true and correct copy of Plaintiff's "The Universal Church" Trademark Registration (Registration No. 4,124,440) (USUS000209).

13. Annexed hereto as **Exhibit K** is a true and correct copy of Plaintiff's "Universal Church of the Kingdom of God" Trademark Registration (Registration No. 3930709) (UCUS000024).
14. Annexed hereto as **Exhibit L** is a true and correct copy of Plaintiff's Section 8 and Section 15 filings with the United States Patent and Trademark Office in connection with the "Universal Church of the Kingdom of God" trademark (UCUS000271-UCUS000282).
15. Annexed hereto as **Exhibit M** is a true and correct copy of the Deposition Transcript of Celia Regina DaSilva, dated March 8, 2016.
16. Annexed hereto as **Exhibit N** is a true and correct copy of the entry for the term "universal" as found in The Oxford English Dictionary (3rd ed. 2010).
17. Annexed hereto as **Exhibit O** is a true and correct copy of the entry for the term "church" as found in *A Dictionary of the Bible* (Ed. W. R. F. Browning, Oxford Biblical Studies Online).
18. Annexed hereto as **Exhibit P** is a true and correct copy of the relevant portions of the entry for "History of Europe" as found in *Britannica Online Encyclopedia*, <<http://www.britannica.com/>> (ULC000323, ULC000361).
19. Annexed hereto as **Exhibit Q** is a true and correct copy of a screen capture of the <wikipedia.com> entry for "Universal Church" (ULC000484).
20. Annexed hereto as **Exhibit R** is a true and correct copy of the Expert Report of Msgr. John A. Alesandro, dated March 28, 2016.
21. Annexed hereto as **Exhibit S** is a true and correct copy of a February 22, 2015 news article from Catholic Herald, available at <<http://www.catholicherald.co.uk>> (ULC000220-ULC000221).

22. Annexed hereto as **Exhibit T** is a true and correct copy of the Deposition Transcript of Msgr. John A. Alesandro, dated August 22, 2016.
23. Annexed hereto as **Exhibit U** is a true and correct copy of the Expert Report of Rev. Dale T. Irvin, dated June 24, 2016.
24. Annexed hereto as **Exhibit V** is a true and correct copy of the Deposition Transcript of Rev. Dale T. Irvin, dated August 22, 2016.
25. Annexed hereto as **Exhibit W** is a true and correct copy of an article regarding the Tomb of Pope John Paul II, available at <<http://stpetersbasilica.info>> (ULC000190-ULC000191).
26. Annexed hereto as **Exhibit X** is a true and correct copy of an Omnibus Exhibit Consisting of Corporate Registrations from Secretary of State Offices Around the United States Showing Active Corporations Using the Phrase “Universal Church” in their Names (ULC000486-ULC000529).
27. Annexed hereto as **Exhibit Y** is a true and correct copy of an email chain between Defendants and <GoDaddy.com> regarding registration of the <universalchurch.org> domain (ULC000256-ULC000260).
28. Annexed hereto as **Exhibit Z** is a true and correct copy of the Deposition Transcript of Brian Wozeniak, dated February 2, 2016. This exhibit has been filed partially redacted with an unredacted copy contemporaneously delivered to Chambers and opposing counsel via overnight mail in connection with Defendants’ Motion to Seal Portions of Defendants’ Motion for Summary Judgment.
29. Annexed hereto as **Exhibit AA** is a true and correct copy of Sales and Traffic Analytics for Defendants’ website <themonastery.org> (ULC000001-ULC000005, ULC000304, ULC000322). This exhibit has been filed partially redacted with an unredacted copy

contemporaneously delivered to Chambers and opposing counsel via overnight mail in connection with Defendants' Motion to Seal Portions of Defendants' Motion for Summary Judgment.

30. Annexed hereto as **Exhibit BB** is a true and correct copy of the Deposition Transcript of Michael Fitterer, dated March 31, 2016.
31. Annexed hereto as **Exhibit CC** is a true and correct copy of the Expert Report of Kevin Lee, dated June 30, 2016.
32. Annexed hereto as **Exhibit DD** is a true and correct copy of correspondence between Plaintiff's counsel and various search engine providers regarding the subject matter of the instant lawsuit (UCUS001570-UCUS001579).
33. Annexed hereto as **Exhibit EE** is a true and correct copy of an Omnibus Exhibit Collecting News Articles Regarding Plaintiff's Reputation (ULC000226-ULC000244, ULC000264-ULC000275).
34. Annexed hereto as **Exhibit FF** is a true and correct copy of an unauthenticated screen capture from Plaintiff's alleged <facebook.com> account as produced by Plaintiff in discovery (UCUS001840).
35. Annexed hereto as **Exhibit GG** is a true and correct copy of Plaintiff's Expert Report from Cornerstone Investigations LLC, dated May 18, 2016.
36. Annexed hereto as **Exhibit HH** is a true and correct copy of the Deposition Transcript of Defendants' Rebuttal Expert Hal Poret, dated August 24, 2016.
37. Annexed hereto as **Exhibit II** is a true and correct copy of the Rebuttal Expert Report of Hal Poret, dated June 30, 2016.
38. Annexed hereto as **Exhibit JJ** is a true and correct copy the Deposition Transcript of Divya Verma, dated April 6, 2016.

39. Annexed hereto as **Exhibit KK** is a true and correct copy the Deposition Transcript of Luiz Pavao, dated January 25, 2016.
40. Annexed hereto as **Exhibit LL** is a true and correct copy of Defendants' Answer with Affirmative Defenses and Counterclaims, dated January 12, 2015.
41. Annexed hereto as **Exhibit MM** is a true and correct copy of Plaintiff's First Amended Rule 26(a)(1) Initial Disclosures, dated June 23, 2015.
42. Annexed hereto as **Exhibit NN** is a true and correct copy of an August 26, 2015 letter from Plaintiff's counsel Katherine Daniels to defense counsel regarding, *inter alia*, Plaintiff's waiver of certain categories of damages.
43. Annexed hereto as **Exhibit OO** is a true and correct copy of Plaintiff's Response to Defendants' First Set of Requests for Production of Documents and Things, dated August 14, 2015.
44. Annexed hereto as **Exhibit PP** is a true and correct copy of a January 5, 2016 Hearing Transcript held before The Hon. Judge Naomi Reice Buchwald.
45. Based on the foregoing record, Defendants now move for summary judgment pursuant to Fed. R. Civ. P. 56.
46. Defendants respectfully refer the Court to their Memorandum of Law and Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1 in support of the instant motion.
47. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
October 14, 2016



Jura C. Zibas